



Docket No.: F1866.0065

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:  
Tomohiro Igakura

Application No.: 09/960,548

Confirmation No.: 5904

Filed: September 20, 2001

Art Unit: 2161

For: FILE MANAGING SYSTEM

Examiner: T. Y. Chen

**PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO  
RECEIVE A NOTICE OF NON-COMPLIANT AMENDMENT**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

It is respectfully requested that the Notice of Abandonment mailed July 31, 2007, be withdrawn and the time to respond to the Notice of Non-Compliant Amendment originally mailed December 21, 2006, be restarted so that the enclosed Response to Non-Compliant Appeal Brief can be entered.

This Petition is being submitted on the grounds that the Notice of Non-Compliant Amendment, dated December 21, 2006, was never received.

An Notice of Non-Compliant Amendment was mailed in the above-identified patent application on December 21, 2006 to Applicant's representative. However, Applicant's representative never received this Notice of Non-Compliant Amendment and was therefore unaware that a response was due. Applicant became aware of the Notice of Non-Compliant Amendment when Applicant's attorney received a telephone call from the Examiner reporting the status of the

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case after June 21, 2006, and the subsequent Notice of Abandonment resulting from the failure to respond to the outstanding Action.

M.P.E.P. § 711.03(c)(II) provides that where Applicant's Petition to Withdraw a Holding of Abandonment is adequately supported, the Office may grant the Petition and re-mail the Office action. Applicant's Petition will be adequately supported under § 711.03(c)(II) where Applicant provides (1) "a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received"; and (2) a "copy of the docket record where the non-received Office communication would have been entered had it been received and docketed." The copy of the docket record must be attached to and referenced in the practitioner's statement.

Applicant files herewith a Declaration by practitioner Ian R. Blum (Reg. 42,336) stating that the Notice of Non-Compliant Amendment, mailed December 21, 2006, was not received by anyone in practitioner's law firm, it would have been entered in the law firm's docketing records. Mr. Blum's Declaration further attests that a search of the file jacket and the docket records indicates that the Notice of Non-Compliant Amendment was not received.

Further, Mr. Blum's Declaration sets forth the standard business practice with regard to Office Actions and other correspondence from the PTO.

The Dickstein docket record where the non-received Notice of Non-Compliant Amendment would have been entered, had it been received and

docketed or present in the file jacket, is attached as Exhibits A and B to Mr. Blum's Declaration. Specifically, Exhibit A shows the Dickstein docket records for every matter docketed for January 21, 2007 (one month after the date of mailing of the Notice of Non-Compliant Amendment ) and Exhibit B shows the Dickstein docket records for every matter docketed for June 21, 2007 (the deadline for responding to the Notice of Non-Compliant Amendment). Applicant files herewith a copy of the docket record for January 21, 2007 and June 21, 2007, for the Examiner's convenience. A review of these docketing records shows that no deadlines for Docket No. F1866.0065 were docketed for either January 21, 2007 or June 21, 2007.

Applicant also files herewith a Supplemental Declaration of Henrietta Marron, who maintains the docket at Dickstein, attesting that if anyone in the docketing department at Dickstein had received the Notice of Non-Compliant Amendment mailed December 21, 2006, it would have been entered into the law firm's docket records. The fact that the Notice of Non-Compliant Amendment does not appear on Dickstein's docket records indicates that Dickstein did not receive the Notice of Non-Compliant Amendment and that the Notice of Non-Compliant Amendment was not present in the file jacket.

For the foregoing reasons, Applicant respectfully requests that this Petition be granted and that the Notice of Non-Compliant Amendment be re-mailed and the time to respond thereto be restarted or in the alternative that the Notice of Abandonment be withdrawn and the Appeal Brief submitted concurrently be accepted.

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The Patent Office is hereby authorized to charge our credit card for the \$130.00 petition fee. PTO Form 2038 is enclosed.

The Commissioner is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 50-2215.

Dated: June 12, 2008

Respectfully submitted,

By

Ian R. Blum

Registration No.: 42,336  
DICKSTEIN SHAPIRO LLP  
1177 Avenue of the Americas  
New York, New York 10036-2714  
(212) 277-6500  
Attorney for Applicant

The PTO did not receive the following  
listed item(s) A credit card form  
for \$130.00



Docket No.: F1866.0065

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:  
Tomohiro Igakura

Application No.: 09/960,548

Confirmation No.: 5904

Filed: September 20, 2001

Art Unit: 2161

For: FILE MANAGING SYSTEM

Examiner: T. Y. Chen

**DECLARATION OF IAN R. BLUM**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

I, Ian R. Blum, declare as follows:

1. I am currently an associate in the law firm Dickstein Shapiro, LLP ("Dickstein").

2. I am registered to practice before the United States Patent and Trademark Office (USPTO) (Reg. No. 42,336).

3. I represent Tomohiro Igakura, the inventor, in connection with prosecution of the above-captioned patent application before the USPTO.

4. Neither I nor anyone else at Dickstein received a Notice of Non-Compliant Amendment, mailed December 21, 2006. In her June 11, 2008 Declaration (submitted herewith), Dickstein docketing specialist Henrietta Marron, whose responsibility it was to open, record, and docket mail received from the USPTO, stated that, as of January 21, 2007, no substantive paper was

received from the USPTO for the above-captioned patent application.

Subsequently, the only paper received was a Notice of Abandonment, mailed on July 31, 2007.

5. A search of the file jacket for the above-captioned patent application indicates that the Notice of Non-Compliant Amendment was not received. Specifically, a search of the file jacket did not result in the location or discovery of the Notice of Non-Compliant Amendment mailed December 21, 2006.

6. If anyone employed by Dickstein had received the Notice of Non-Compliant Amendment mailed December 21, 2006, that Notice of Non-Compliant Amendment would have been entered into Dickstein's docket records. Specifically, a response to the Notice of Non-Compliant Amendment would have been docketed for January 21, 2007 and a six month deadline would have been docketed for June 21, 2007.

7. A copy of Dickstein's docket records for January 21, 2007, and June 21, 2007 (labeled "January 2007" and "June 2007") are attached hereto as Exhibits A and B, respectively.

8. Dickstein's docket records (Exhibits A and B) have been redacted to protect client confidentiality. For all records, the redacted portions are the client names.

9. In all cases, sufficient information has been left un-redacted to distinguish the above-captioned patent application from the patent applications with due dates docketed for January 21, 2007 and June 21, 2007.

10. No redacted docket number corresponds to the docket number of the above-captioned patent application (F1866.0065).

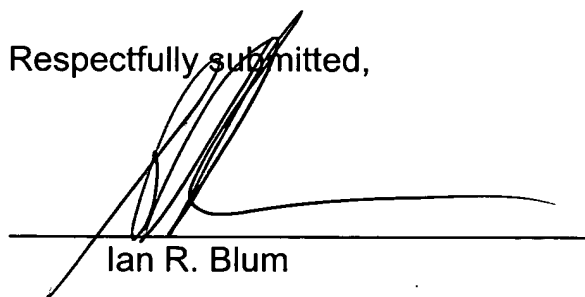
11. The fact that no redacted docket number on Dickstein's docket records corresponds to the docket number of the above-captioned patent application indicates that the law firm did not receive the Notice of Non-Compliant Amendment.

12. The fact that the Notice of Non-Compliant Amendment does not appear in the Dickstein docket indicates that it was never received by Dickstein.

I am aware that willful false statements and the like are punishable by fine or imprisonment, or both under 18 U.S.C. § 1001 and may jeopardize the validity of the instant application or any patent issuing thereon. I certify that all statements made of my own knowledge are true and all statements made on information and belief are believed to be true.

Dated: June 12, 2008

Respectfully submitted,



Ian R. Blum

<del>GENNY</del>	<del>T5</del>	<del>10/54</del>	<del>MISSING PARTS + 5</del>	<del>DEADLINE 8/1</del>
<del>ALTS</del>	<del>CH</del>	<del>09/80</del>	<del>FINAL REJECT + 3</del>	<del>DEADLINE 9/29</del>
<del>MIS</del>	<del>CH</del>	<del>09/80</del>	<del>NOTICE OF APPEAL + 3</del>	<del>DEADLINE 10/30</del>
<del>ERM</del>	<del>CH</del>	<del>10/16</del>	<del>REST REQ. + 5</del>	<del>DEADLINE 8/8</del>
<del>MISHRB</del>	<del>X1</del>	<del>10/38</del>	<del>FINAL REJECT + 3</del>	<del>DEADLINE 9/26</del>
<del>MISHRB</del>	<del>X1</del>	<del>10/38</del>	<del>NOTICE OF APPEAL + 3</del>	<del>DEADLINE 10/20</del>
<del>MISJWR</del>	<del>T2</del>	<del>10/90</del>	<del>FINAL REJECT + 1</del>	<del>1/22</del>
<del>MISJWR</del>	<del>T2</del>	<del>10/78</del>	<del>NOTICE OF APPEAL + 1</del>	<del>OFF</del>
<del>ERM</del>	<del>M</del>	<del>09/9</del>	<del>NOTICE OF APPEAL + 2</del>	<del>OFF</del>



JUNE

21

THURSDAY

2007 172nd day - 193 days follow

Summer begins

~~LOB/HRB~~ N  
~~LOB~~ E  
~~SHW/RL~~ T  
~~MIC/TWR~~ W  
~~FAM~~ O  
~~MIC/RA~~ X  
~~LOB~~ F  
~~MIS~~ N  
~~MIC/RL~~ S  
~~BDS/RL~~ N  
~~GEN/HIS~~ V  
~~LOB~~ V

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~~10191~~  
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~~9817~~  
~~10139~~  
~~0419~~  
~~0417~~  
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~~1114~~  
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Docket No.: F1866.0065

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In re Patent Application of:  
Tomohiro Igakura

Application No.: 09/960,548

Confirmation No.: 5904

Filed: September 20, 2001

Art Unit: 2161

For: FILE MANAGING SYSTEM

Examiner: T. Y. Chen

**DECLARATION OF HENRIETTA MARRON**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

I, Henrietta Marron, declare as follows:

1. I am the patent docketing specialist in the employ of Dickstein Shapiro, LLP (Dickstein). I have been so employed since approximately January 7, 2002.
2. One of my responsibilities at Dickstein is to open mail received from the U.S. Patent and Trademark Office ("USPTO") and to record and docket the received mail based on its application serial number.
3. As of December 21, 2006, no substantive paper was received from the USPTO for the above-captioned patent application. Subsequently, the only paper received was a Notice of Abandonment, mailed on July 31, 2007.
4. I did not receive an Notice of Non-Compliant Amendment for the above-captioned patent application.

5. To the best of my knowledge, no one at Dickstein received an Notice of Non-Compliant Amendment for the above-captioned patent application.

6. If I or any other person employed by Dickstein had received the Notice of Non-Compliant Amendment mailed December 21, 2006, that Notice of Non-Compliant Amendment would have been entered into Dickstein's docket records for a response due on January 21, 2007 and a six month due deadline on June 21, 2007.

7. Therefore, the fact that the Notice of Non-Compliant Amendment, mailed December 21, 2006, does not appear in Dickstein's docket record for either January 21, 2007 or June 21, 2007 (copy attached as Exhibit A) indicates that Dickstein did not receive that Notice of Non-Compliant Amendment.

I am aware that willful false statements and the like are punishable by fine or imprisonment, or both under 18 U.S.C. § 1001 and may jeopardize the validity of the instant application or any patent issuing thereon. I certify that all statements made of my own knowledge are true and all statements made on information and belief are believed to be true.

Dated: June 11, 2008

Respectfully submitted,

  
\_\_\_\_\_  
Henrietta Marron

<del>GENNY</del>	<del>T5</del>	<del>10/54</del>	<del>MISSING PARTS 1-5</del>	<del>DEADLINE 8/1</del>
<del>ALIS</del>	<del>C4</del>	<del>09/80</del>	<del>FINAL REJECT 1-3</del>	<del>DEADLINE 9/29</del>
<del>MJS</del>	<del>B1</del>	<del>09/80</del>	<del>NOTICE OF APPEAL 1-3</del>	<del>DEADLINE 10/30</del>
<del>EMM</del>	<del>G2</del>	<del>10/16</del>	<del>REST REQ. 1-5</del>	<del>DEADLINE 8/8</del>
<del>MISHRB</del>	<del>X3</del>	<del>10/38</del>	<del>FINAL REJECT 1-3</del>	<del>DEADLINE 9/26</del>
<del>MISHRB</del>	<del>X3</del>	<del>10/38</del>	<del>NOTICE OF APPEAL 1-3</del>	<del>DEADLINE 10/30</del>
<del>MISJWR</del>	<del>T2</del>	<del>10/38</del>	<del>FINAL REJECT 1-1</del>	<del>1/22</del>
<del>MISJWR</del>	<del>T2</del>	<del>10/38</del>	<del>NOTICE OF APPEAL 1-1</del>	<del>OK</del>
<del>EMM</del>	<del>M1</del>	<del>09/19</del>	<del>NOTICE OF APPEAL 1-2</del>	<del>OK</del>

JUNE

21

THURSDAY

2007 172nd day - 193 days follow

Summer begins

<del>LEB/HRB</del>	<del>N</del>
<del>LEB</del>	<del>E</del>
<del>SWIRL</del>	<del>F</del>
<del>MIS/TWR</del>	<del>V</del>
<del>FAM</del>	<del>O</del>
<del>MICRA</del>	<del>X</del>
<del>LEB</del>	<del>F</del>
<del>MIS</del>	<del>N</del>
<del>MICRL</del>	<del>O</del>
<del>DDGRL</del>	<del>N</del>
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<del>10/8</del>
<del>11/6</del>

~~RESP TO OA + 3~~~~DEADLINE 3/13~~~~RESP TO OA + 3~~~~DEADLINE 3/21~~~~RESP TO OA + 3~~~~DEADLINE 3/21~~~~RESP TO OA + 3~~~~DEADLINE 7/20~~~~RESP TO OA - FINAL~~~~DEADLINE 6/20~~~~RESP TO OA~~~~EX~~~~RESP TO OA~~~~EX~~~~RESP TO OA~~~~EX~~~~RESP TO OA~~~~6/11~~~~NON COMPLIANT~~~~5/29~~~~RESP TO OA + 1~~~~5/28~~~~MISSING PART 6 + 1~~~~6/21~~